

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on January 12, 2001 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 165 - 1-05-01**
HB 157 - 1-08-01
HB 191 - 1-08-01
HB 184 - 1-08-01
HB 214 - 1-08-01

HEARING ON HB 214

Sponsor: Rep. Jim Shockley, HD 61 said this Bill deals with adding a judge to Ravalli which is a single county judicial district and one judge to Cascade County. In 1993 the 21st Judicial District, the Ravalli County, was split off from Missoula County. There are more attorneys in Ravalli County, per population, than any other county in the state. Ravalli County also has the highest population, per judge. Cascade County situation is a little different. Great Falls is a large city, by Montana standards, and their criminal case load is exploding, even though their population is not going up that much.

Proponents: Karla Gray, Chief Justice, Montana Supreme Court

Jeffrey Langton, District Judge, 21st Judicial District, Hamilton, EXHIBIT(juh09a01)

Ken Neill, District Judge, 8th Judicial District, Cascade County EXHIBIT(juh09a02)

Tom McKittrick, District Judge, 8th Judicial District, Cascade County

Julie Macek, District Judge, 8th Judicial District, Cascade County

{Tape : 1; Side : A; Approx. Time Counter : 0 - 29.7}

Deborah Kottel, Commissioner, Cascade County

Betty Lund, Commissioner, Ravalli County

EXHIBIT(juh09a03)

EXHIBIT(juh09a04)

Sen. Steve Doherty, SD24, Great Falls

Joe Mazurek, on behalf of the City of Great Falls

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 12}

John Greef, President, Ravalli County Bar Association.

Larry Johnson, Attorney, Hamilton

Al Smith, Montana Trial Lawyers Association

Opponents: None

Questions from Committee Members and Responses: Rep. Eggers to Judge Langton concerning a study on redistricting and the inequity of the caseload. Judge Langton pointed out the serious issues involved and how to realign counties. This should be studied more. There should be a proposal developed, if possible, to do something.

Reps. Curtiss, Newman, Harris, Clark, Peterson to Judge Langton; Carol Stratemeyer, Chief Juvenile Officer, 21st Judicial District, Hamilton; Judge McKittrick; concerning grants, handling priorities, and summary judgements.

{Tape : 1; Side : B; Approx. Time Counter : 12 - 29.5}

Closing by Sponsor: Rep. Shockley closed the Hearing on HB 214.

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 5}

HEARING ON HB 165

Sponsor: Rep. Gail Gutsche, HD 66, Missoula said this Bill would establish the Montana Repatriation Act. This Bill is brought to the Committee by the request of Law, Justice and Indian Affairs Interim Committee. This Bill builds on the Human Skeletal Remains and Burial Site Protection Act which was passed by the Montana Legislature in 1991. That Law provided a policy and a procedure for protecting from disturbance or destruction all human remains, burial sites and burial materials in marked or unmarked graves or burial sites which are located on either state or private land without regard to ethnic origin, burial context or age. The 1991 Law did not include a repatriation provision which would address the discovery and disturbance of burial sites and the removal of human remains prior to 1991 and that is what HB 165 is attempting to do. It addresses those concerns.

HB 165 provides a mechanism for repatriation, that is, the return of items that have been taken from burial sites and graves, if there is next of kin of a culturally affiliated group who request the return of remains.

Proponents: Germaine White, Representative from the Confederated Salish and Kootenai Tribes **EXHIBIT** (juh09a05)

Rep. Dan McGee, HD 21 said it was his idea to propose it to the Law, Justice and Indian Affairs Committee that this particular piece of legislation go forward as a committee bill.

Carl Fourstar, Member of the Fort Peck, Assiniboine and Sioux Tribes.

Antoine Incashola, Pablo; Director, Salish, Pondera Cultural Committee, Confederated Salish and Kootenai Tribes, Flathead Indian Reservation.

{Tape : 2; Side : A; Approx. Time Counter : 5 - 29.6}

Rep. Carol Juneau, HD 85, Glacier County,
EXHIBIT(juh09a06)

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 5.7}

Rep. Norma Bixby, HD 5, Northern Cheyenne and Crow Indian Tribes.

Rep. Joey Jayne, HD 73, Arlee, Flathead Indian Reservation. Member of the Navajo Tribe, New Mexico.

Sharon Hoff-Brodowy, Montana Catholic Conference

George Ochenski, Montana-Wyoming Tribal Leaders' Council. **EXHIBIT**(juh09a07)

{Tape : 2; Side : B; Approx. Time Counter : 5.7 - 15}

Lloyd Irvine, Confederated Salish and Kootenai Tribal Council Representative.

Shawn White Wolf, Northern Cheyenne Representative

Rep. Frank Smith, HD 98, Poplar

Opponent: Arnie Olsen, Montana Historical Society said he stood in support of the Bill with the amendments he is proposing **EXHIBIT**(juh09a08) Chairman Shockley ruled he was an Opponent.

Mary and Calvin Sarver, Wilsall **EXHIBIT**(juh09a09)

Mel Anzick, Landowner

{Tape : 2; Side : B; Approx. Time Counter : 15 - 29.7}

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 29.1}

Questions from Committee Members and Responses: Rep. Eggers to Rep. Gutsche concerning the amendments' time line. Rep. Gutsche stated she heard about them by accident last night and feels the amendments change the intent of the Bill.

Rep. Eggers asked Sarah Bond when the Bill was drafted. Ms. Bond specializes in Indian Law for the purposes of assisting other state agencies on behalf of the Attorney General's office, but to the extent legislation is challenged, will defend it, so helped draft the Bill which took several months. The office of the Attorney General is neither a proponent nor an opponent.

Reps. Laszloffy, Hurdle, Eggers to Ms. Bond, Germaine White, Rep. Gutsche, Mary Sarver, Mr. Fourstar for further clarification

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 10.5 }

Rep. Eggers asked Arnold Olsen for comments. Mr. Olsen said he got involved with this Bill when it came out as a Bill. His staff was involved earlier and he will take responsibility for that and for not getting involved earlier. He realized in December it was a very complex issue and that's why he asked the legal services of the Attorney General's office to help them. Had he realized the amendments would cause such a stir, he would have talked about some of the issues a little earlier. He apologized to the Sponsor last night. Rep. Eggers said Mr. Olsen's amendments gutted the proposed legislation. Mr. Olsen said he doesn't believe that it does. He felt the amendments raised some important issues that needed discussion.

Reps. Newman, Peterson, Eggers, Noennig, Thomas, Shockley to Mr. Olsen; Stan Wilmoth, State Archeologist; Sarah Bond; Rep. Gutsche; and Ms. White for further clarification.

{Tape : 3; Side : B; Approx. Time Counter : 10.5 - 22.5}

Closing by Sponsor: Rep. Gutsche closed the Hearing on HB 165 by saying she would like to go on record as objecting to state agencies submitting amendments that are clearly self-serving and for which she did not have enough time to sponsor. It is inappropriate.

{Tape : 3; Side : B; Approx. Time Counter : 22.5 - 24.4}

HEARING ON HB 157

Sponsor: Rep. Steve Gallus, HD 35, Butte-Silver Bow County said this Bill is requested by the Department of Corrections regarding the felony of illegal transfer to prisoner, other than weapon or

drugs. The introduction of contraband into the prison system poses a serious threat to everyone involved, including public safety. It poses a threat to the inmate population, the staff and puts into question the safe operation of all correctional facilities in the State of Montana, state facilities as well as county jails. It can lead to drug trafficking and actual acts of violence where people can get hurt. **EXHIBIT(juh09a10)**

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 10.8}

Proponents: Mike Mahoney, Warden, Montana State Prison

Patrick Smith, Bureau Chief, Contract Placement,
Department of Corrections

Mike Aldrich, Associate Warden, Montana Women's
Prison

Mike Micu, Investigator, Department of Corrections

Inga Nelson, MEA-MFT (Montana Education Association
and Montana Federation of Teachers)

Marwan Saba, Corrections Officer; President, Local
Montana Federation of Prison Employees.

Opponents: None

Questions from Committee Members and Responses: Reps. Eggers,
Hurdle, Younkin, Harris, Mangan, Clark, Shockley to Warden
Mahoney and Rep. Gallus for suggestions and clarification.

Closing by Sponsor: Rep. Gallus closed the Hearing on HB 157.

HEARING ON HB 184

Sponsor: Rep. Steve Gallus, HD 35, Butte - Silver Bow County said this Bill seeks to amend the Montana Criminal Justice Information Act. This Act provides for the collection of valuable criminal offense data and currently excludes the question of traffic offense data when that offense is as serious as a DUI.

Proponents: Brenda Nordlund, Office of the Attorney General.
EXHIBIT(juh09a11) EXHIBIT(juh09a12)

{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 3.9}

Proponents: Mike Menahan, Deputy County Attorney, Lewis and Clark
County

Opponents: None

Questions from Committee Members and Responses: Reps. Gutsche, Peterson, Newman, Harris to Ms. Nordlund for clarification.

Closing by Sponsor: Rep. Gallus closed the Hearing on HB 184.

{Tape : 4; Side : B; Approx. Time Counter : 3.9 - 15.6}

HEARING ON HB 191

Sponsor: Rep. Steve Gallus, HD 35, Butte - Silver Bow County said this Bill is a fundamental fairness issue that addresses the unintended adverse consequences associated with current laws regarding minor possession. The intent of the law is to provide penalties and consequences for minors who illegally possess alcohol. These penalties should and will remain in effect on the passage of this legislation.

Proponents: Brenda Nordlund, Assistant Attorney General assigned to assist the Motor Vehicle Division. **EXHIBIT**(juh09a13)

Pam Bucy, Assistant Attorney General

Opponents: None

{Tape : 4; Side : B; Approx. Time Counter : 15.6 - 29.3}

Informational Witness: Robert Throssell, Montana Magistrates' Association.

{Tape : 5; Side : A; Approx. Time Counter : 0.1 - 11.9}

Questions from Committee Members and Responses: Rep. Mangan, Harris to Rep. Gallus and Ms. Nordlund for amendment information.

Closing by Sponsor: Rep. Gallus closed the Hearing on HB 191.

ADJOURNMENT

Adjournment: 12:10 P.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh09aad)